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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91186494
Party	Defendant Anthony Brown
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Submission	Opposition/Response to Motion
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Date	03/19/2009
Attachments	Koolresponsedefault.pdf (2 pages)(68960 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK AND TRIAL APPEAL BOARD

In the Matter of Application Serial No. 77/355857: KOOL
Published in the *Official Gazette* of July 22nd 2008, in International Class 32

KRAFT FOODS GLOBAL BRANDS LLC,

Opposition No. 91186494

Opposer,

v.

ANTHONY BROWN,

Applicant.

APPLICANT'S REPLY TO OPPOSER'S RESPONSE TO DEFAULT MOTION

On Monday, March 16th 2009 pursuant to the Trademark Rules Section 2.127 Anthony Brown (Applicant) moved for Default Judgment against Opposer on its Motion For Summary Judgment, which was filed on Wednesday, February 11th 2009. Opposer's Response Brief was due (30) thirty days later which was Wednesday, March 11th 2009. (Said 30 days includes Saturdays and Sundays)

Since the Applicant's Motion for Summary Judgment was mailed via U.S. 1st Class and pursuant to Section 2.119 (c). Opposer was granted an additional five (5) days to reply which meant it was due on Monday, March 16th 2009. Section 2.119(c) does not exclude Saturday and Sunday as part of the five (5) days.

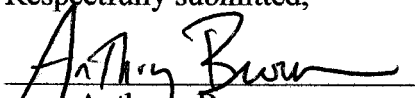
In Opposer's response to our Motion for Default, they state their reply brief was due on March 18th 2009. That is incorrect. They have improperly excluded the weekend. In this instance the Opposer reply brief was clearly due on Monday, March 16th 2009 and not Wednesday, March 18th 2009.

Therefore, Opposer's filing date for their response of March 18th 2009 is untimely and said filing should not be considered or allowed.

Opposer has failed to file a timely response to Applicant's Motion for Summary Judgment.


Accordingly, default judgment should be entered against Opposer and Applicant's trademark registration for "Kool"- Serial # 77/355857 be allowed to proceed to registration.

Respectfully submitted,


Anthony Brown
Dated: 3/19/09

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been furnished via U.S. Mail 1st Class on this 14th Day of March 2009 to: Morgan, Lewis & Bockius LLP- Att: J. Kevin Fee and Natalie Ward- 1111 Pennsylvania Ave, NW Washington, DC 20004


Anthony Brown 3/19/09